

Introduced by Senator KehoeFebruary 23, 2007

An act to amend Sections 41007, 41010, 41011, 41016, and 41020 of, and to add Sections 41011.5 and 41152 to, the Revenue and Taxation Code, relating to telecommunications, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1024, as introduced, Kehoe. Telecommunications: Emergency Telephone Users Surcharge Act.

Existing provisions of the Warren-911-Emergency Assistance Act establishes the number "911" as the primary emergency telephone number of use in the state. The existing Emergency Telephone Users Surcharge Act ("911" surcharge act) generally imposes a surcharge on amounts paid by every person in the state for intrastate telephone service and is imposed at a percentage rate, not less than 0.5% nor more than 0.75% that is annually estimated to provide revenues sufficient to fund "911" emergency telephone system costs for the current fiscal year. Surcharge amounts are paid to the State Board of Equalization on a monthly basis by the telephone service supplier and are deposited into the State Treasury to the credit of the State Emergency Telephone Number Account in the General Fund, to be expended for limited purposes, including to pay the Department of General Services for its costs in administration of the "911" emergency telephone number system. Existing law defines a "service supplier," for purposes of the "911" surcharge act, as meaning a person supplying intrastate telephone communication services, as defined, pursuant to California intrastate tariffs to any service user, as defined, in the state and includes any person supplying intrastate telephone communications services for

whom the Public Utilities Commission has eliminated the requirement for filing an intrastate tariff.

This bill would define a “service supplier,” for purposes of the “911” surcharge act, as meaning any person supplying intrastate telephone communication services capable of originating a “911” emergency telephone call from any service user in the state. The bill would include “bundled services,” as defined, within the definition of intrastate telephone communication services. The bill would incorporate, in the “911” surcharge act, certain definitions from federal law and other state law and would make other technical, nonsubstantive changes.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 41007 of the Revenue and Taxation Code
2 is amended to read:

3 41007. (a) “Service supplier” shall mean any person supplying
4 intrastate telephone communication services pursuant to California
5 intrastate tariffs to capable of originating a “911” emergency
6 telephone call from any service user in this state.

7 (b) ~~On and after January 1, 1988, “service supplier” also includes~~
8 ~~any person supplying intrastate telephone communications services~~
9 ~~for whom the Public Utilities Commission, by rule or order,~~
10 ~~modifies or eliminates the requirement for that person to prepare~~
11 ~~and file California intrastate tariffs.~~

12 SEC. 2. Section 41010 of the Revenue and Taxation Code is
13 amended to read:

14 41010. (a) “Intrastate telephone communication services”
15 means all local or toll telephone services where the point or points
16 of origin and the point or points of destination of the service are
17 all located in this state.

18 (b) *When bundled services include an intrastate telephone*
19 *communication service or services, the bundled services are*
20 *“intrastate telephone communication services” under this part.*

21 SEC. 3. Section 41011 of the Revenue and Taxation Code is
22 amended to read:

41011. (a) “Charges for services” means all charges billed by a service supplier to a service user for intrastate telephone communications services and ~~shall mean~~ local telephone service ~~and include~~, and includes monthly service flat-rate charges for usage, message unit charges ~~and shall mean~~ toll charges, ~~and include~~ ~~intra-state-wide intrastate statewide~~ area telephone service charges, and bundled service charges. ~~“Charges~~

(b) (1) “Charges for services” shall not include any tax imposed by the United States or by any charter city, charges for service paid by inserting coins in a public coin-operated telephone, and shall not apply to amounts billed to nonsubscribers for coin shortages. Where a coin-operated telephone service is furnished for a guarantee or other periodic amount, such amount is subject to the surcharge imposed by this part.

~~“Charges~~

(2) “Charges for services” shall not include charges for intrastate toll calls where bills for such calls originate out of California.

~~“Charges~~

(3) “Charges for services” shall not include charges for any nonrecurring, installation, service connection or one-time charge for service or directory advertising, and shall not include private communication service charges, charges for other than communications service, or any charge made by a hotel or motel for service rendered in placing calls for its guests regardless of how such hotel or motel charge is denominated or characterized by an applicable tariff of the Public Utilities Commission of this state.

~~“Charges~~

(4) “Charges for services” shall not include charges for basic exchange line service for lifeline services.

SEC. 4. Section 41011.5 is added to the Revenue and Taxation Code, to read:

41011.5. (a) “Bundled service” means telecommunications services, as defined in Section 153 of Title 47 of the United States Code, that includes multiple communications services that are not billed separately, and includes all of the following:

(1) Telecommunications service supplied pursuant to a plan that does not separately state the charge for the local telephone service or calling features.

(2) Telecommunications service utilizing Voice over Internet Protocol (VoIP).

(3) Telecommunications service supplied to a service user utilizing a prepaid telephone card or prepaid mobile telecommunications service.

(4) Telecommunications service provided to a service user pursuant to a plan that provides both local and toll telephone services and, if included, calling features for either a flat monthly fee or a charge that varies with the elapsed transmission time for which the services are used.

(5) Telecommunications service under a plan for both local exchange services and mobile telecommunications services.

(b) “Calling features” include all of the following:

(1) Three-way calling.

(2) Call forwarding.

(3) Caller identification functions, including identification blocking.

(4) Call waiting.

(5) Centralized telephone messaging, including voicemail.

SEC. 5. Section 41016 of the Revenue and Taxation Code is amended to read:

41016. “Toll telephone service” ~~shall mean~~ *means either of the following:*

(a) ~~A telephonic quality communication~~ *Telecommunications service, as that term is defined in Section 153 of Title 47 of the United States Code, for which (1) there is a toll charge which varies in amount with the distance and elapsed transmission time of each individual communication and, or (2) the charge is paid within the United States, and includes “telephone toll service” as defined in Section 153 of the United States Code.*

(b) A service which entitles the subscriber, upon payment of a periodic charge (determined as a flat amount or upon the basis of total elapsed transmission time), to the privilege of an unlimited number of telephonic communications to or from all or a substantial portion of the persons having telephone or radiotelephone stations in a specified area which is outside the local telephone system area in which the station provided with this service is located.

SEC. 6. Section 41020 of the Revenue and Taxation Code is amended to read:

1 41020. (a) A surcharge is hereby imposed on amounts paid
2 by every person in the state for intrastate telephone communication
3 service in this state commencing on July 1, 1977.

4 (b) The surcharge imposed shall be at the rate of one-half of 1
5 percent of the charges made for such services to and including
6 November 1, 1982, and thereafter at a rate fixed pursuant to Article
7 2 (commencing with Section 41030).

8 (c) The surcharge shall be paid by the service user as hereinafter
9 provided.

10 (d) In accordance with the Mobile Telecommunications Sourcing
11 Act (P.L. 106-252), which is incorporated herein by reference, the
12 surcharge imposed under this section does not apply to any charges
13 for mobile telecommunications services billed to a customer where
14 those services are provided, or deemed provided, to a customer
15 whose place of primary use is outside this state. Mobile
16 telecommunications services shall be deemed provided by a
17 customer's home service provider to the customer if those services
18 are provided in a taxing jurisdiction to the customer, and the
19 charges for those services are billed by or for the customer's home
20 service provider.

21 (e) For purposes of this section:

22 (1) "Charges for mobile telecommunications services" means
23 any charge for, or associated with, the provision of ~~commercial~~
24 ~~mobile radio service, as defined in Section 20.3 of Title 47 of the~~
25 ~~Code of Federal Regulations, as in effect on June 1, 1999, or any~~
26 ~~charge for, or associated with, a service provided as an adjunct to~~
27 ~~a commercial mobile radio~~ *mobile telephony* service, *as defined*
28 *in Section 224.4 of the Public Utilities Code*, that is billed to the
29 customer by or for the customer's home service provider, regardless
30 of whether individual transmissions originate or terminate within
31 the licensed service area of the home service provider.

32 (2) "Customer" means (A) the person or entity that contracts
33 with the home service provider for mobile telecommunications
34 services, or (B) if the end user of mobile telecommunications
35 services is not the contracting party, the end user of the mobile
36 telecommunications service. This paragraph applies only for the
37 purpose of determining the place of primary use. The term
38 "customer" does not include (A) a reseller of mobile
39 telecommunications service, or (B) a serving carrier under an

1 arrangement to serve the customer outside the home service
2 provider's licensed service area.

3 (3) "Home service provider" means the facilities-based carrier
4 or reseller with which the customer contracts for the provision of
5 mobile telecommunications services.

6 (4) "Licensed service area" means the geographic area in which
7 the home service provider is authorized by law or contract to
8 provide commercial mobile radio service to the customer.

9 (5) "Mobile telecommunications service" means ~~commercial~~
10 ~~mobile radio service, as defined in Section 20.3 of Title 47 of the~~
11 ~~Code of Federal Regulations, as in effect on June 1, 1999~~ *mobile*
12 *telephony service as defined in Section 224.4 of the Public Utilities*
13 *Code.*

14 (6) "Place of primary use" means the street address
15 representative of where the customer's use of the mobile
16 telecommunications service primarily occurs, that must be:

17 (A) The residential street address or the primary business street
18 address of the customer.

19 (B) Within the licensed service area of the home service
20 provider.

21 (7) (A) "Reseller" means a provider who purchases
22 telecommunications services from another telecommunications
23 service provider and then resells the services, or uses the services
24 as a component part of, or integrates the purchased services into,
25 a mobile telecommunications service.

26 (B) "Reseller" does not include a serving carrier with which a
27 home service provider arranges for the services to its customers
28 outside the home service provider's licensed service area.

29 (8) "Serving carrier" means a facilities-based carrier providing
30 mobile telecommunications service to a customer outside a home
31 service provider's or reseller's licensed area.

32 (9) "Taxing jurisdiction" means any of the several states, the
33 District of Columbia, or any territory or possession of the United
34 States, any municipality, city, county, township, parish,
35 transportation district, or assessment jurisdiction, or any other
36 political subdivision within the territorial limits of the United States
37 with the authority to impose a tax, charge, or fee.

38 SEC. 7. Section 41152 is added to the Revenue and Taxation
39 Code, to read:

40 41152. The Legislature finds and declares all of the following:

1 (a) Access to emergency telephone service has been a
2 longstanding goal of the state.

3 (b) The Emergency Telephone Users Surcharge Act remains an
4 important means for making emergency telephone service available
5 to every person in this state.

6 (c) Every reasonable means should be employed by telephone
7 corporations and every provider of telephonic quality
8 communication to ensure that every person using their service is
9 informed of and is afforded the opportunity to use emergency
10 telephone service, regardless of the means by which emergency
11 telephone calls are placed.

12 (d) The furnishing of emergency telephone service is in the
13 public interest and should be supported fairly and equitably by
14 every telephone corporation and every provider of telephonic
15 quality communication in a way that is equitable,
16 nondiscriminatory, and competitively neutral.

17 SEC. 8. The amendment of Section 41016 of the Revenue and
18 Taxation Code made by this act does not constitute a change in,
19 but is declaratory of, existing law.

20 SEC. 9. This act is an urgency statute necessary for the
21 immediate preservation of the public peace, health, or safety within
22 the meaning of Article IV of the Constitution and shall go into
23 immediate effect. The facts constituting the necessity are:

24 In order to preserve existing funding of the “911” emergency
25 telephone system and to provide continuing public access to
26 emergency response service, it is necessary that this act take effect
27 immediately.